

LIDA R. DRUMHELLER

IBLA 81-987

Decided April 22, 1982

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM 42829 (OK).

Affirmed.

1. Oil and Gas Leases: Known Geologic Structure

A noncompetitive oil and gas lease application must be rejected where at any time prior to the issuance of the lease the land is determined to be within the known geologic structure of a producing oil or gas field.

2. Oil and Gas Leases: Known Geologic Structure

A determination by the Geological Survey of the known geologic structure of a producing oil and gas field will not be disturbed in the absence of a clear and definite showing that the determination was improperly made.

APPEARANCES: Lida R. Drumheller, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Lida R. Drumheller appeals from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated July 20, 1981, rejecting appellant's offer to lease parcel NM 822 for oil and gas. This offer, more precisely termed a simultaneous oil and gas lease application, was drawn with first priority at the October 21, 1980, drawing of the New Mexico State Office and given serial number NM 42829 (OK). Parcel NM 822 consists of a 40-acre tract in the SE 1/4 SW 1/4 sec. 27, T. 26 N., R. 18 W., Indian meridian, Woodward County, Oklahoma.

Appellant's application was rejected by BLM for the following reason: "Lands contained in lease offer NM 42829 (OK) are within an addition to the undefined known geologic structure of the Southwest Freedom, Northwest Avarad,

Northeast Waynoka, and Northeast Cedardale Fields and may be leased only by competitive bidding pursuant to Regulations 43 CFR 3120."

In the statement of reasons on appeal, appellant contends that the subject lease should have issued within several weeks of the October 21, 1980, drawing. BLM's request for additional information delayed lease issuance, appellant states, and thereafter the Director, Geological Survey (Survey), found the lands to be within a known geologic structure (KGS). Appellant further contends that knowledgeable geologists have advised that it is impossible for four geologic structures to be present in a single 40-acre tract and, therefore, Survey's KGS determination is "an invalid geologic statement."

BLM's request for additional information took the form of a 3-page questionnaire inquiring into appellant's use of an agent in submitting lease application NM 42829 (OK). As part of its normal procedure, BLM also inquired from the Director, Geological Survey, whether the lands about to be leased in parcel NM 822 were within a known geologic structure. Survey's response, dated May 11, 1981, stated that parcel NM 822 and lands in a 2-mile wide corridor due south were within an addition to the undefined known geologic structure of the Southwest Freedom, Northwest Avar, Northeast Waynoka, and Northeast Cedardale Fields effective November 19, 1980. Hence, it appears that regardless of whether the State Office had sought additional information from appellant, BLM's inquiry to Survey would have been made and Survey's answer would have been identical. Although Survey's response to BLM was dated May 11, 1981, the KGS classification was effective November 19, 1980, less than a month after the drawing at issue took place. If appellant is arguing that the State Office would have issued a lease on parcel NM 822 prior to November 19, 1980, but for BLM's request for additional information, appellant greatly overestimates the speed of lease issuance.

[1] The Secretary of the Interior has delegated the duty to determine the boundaries of the known geologic structures of producing oil and gas fields to the Director, Geological Survey, D.M. 220.4.1G; 43 CFR 3100.7-1; and when Survey makes this determination, the Secretary is entitled to rely upon the reasoned opinion of his technical expert in the field. Curtis Wheeler, 31 IBLA 221 (1977).

A noncompetitive offer to lease certain lands for oil and gas must be rejected where either before or after the filing of the offer and prior to the issuance of the lease the land is determined to be within the KGS of a producing oil or gas field. William T. Alexander, 21 IBLA 56 (1975); James W. McDade, 3 IBLA 226 (1971); aff'd, McDade v. Morton, 353 F. Supp. 1006 (D.D.C. 1973), aff'd per curiam, 494 F.2d 1156 (D.C. Cir. 1974). Except for establishing priority of consideration, the drawing of an application for a noncompetitive lease creates no vested rights in the applicant. The signing of a lease offer by the authorized officer of BLM is the act which constitutes acceptance of the lease offer, creates a binding contract, and causes issuance of a lease. Guy W. Franson, 30 IBLA 123, 125 (1977); Barbara C. Lisco, 26 IBLA 340 (1976). The Department has no discretion to issue a noncompetitive lease on KGS lands, but rather is required by law to reject such an offer.

As to appellant's contention that it is impossible for four geologic structures to be present in a single 40-acre tract, a memorandum from Survey to the Chief, Oil and Gas Section, BLM, dated January 26, 1981, provides some insight. This memorandum states that parcel NM 822 and the remainder of sec. 27, T. 26 N., R. 18 W., Indian meridian, are in an extension of the Northwest Avard KGS along with several other adjoining sections. The memorandum further reports that a good gas well has just been completed in the SE 1/4 of sec. 27, only 1,300 feet east of the disputed tract.

BLM's statement in its July 20, 1981, decision that parcel NM 822 was within an addition to the undefined KGS of four named fields was based on Survey's memorandum of May 11, 1981, supra. That memorandum placed parcel NM 822 in a 2-mile wide corridor extending from secs. 27 and 28, T. 26 N., R. 18 W., through and including secs. 21 and 22, T. 25 N., R. 18 W., a distance of some 6 miles. It is this 6-mile long corridor which is within an addition to the undefined KGS of the Southwest Freedom, Northwest Avard, Northeast Waynoka, and Northeast Cedardale fields. Parcel NM 822 itself is within an extension of the Northwest Avard field.

We perceive no error in BLM's decision of July 20, 1981. An applicant for an oil and gas lease who challenges a determination by Survey that lands are situated within a KGS has the burden of showing that the determination is in error, and the determination will not be disturbed in the absence of a clear and definite showing of error. James A. Wallender, 26 IBLA 317 (1976). Appellant has failed to offer evidence that the KGS determination made by Survey is incorrect.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the New Mexico State Office is affirmed.

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Anne Poindexter Lewis  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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Douglas E. Henriques  
Administrative Judge

